

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

DANIEL MARIANO,)	
Plaintiff,)	Civil Action No. 7:12cv00541
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
WESTERN VIRGINIA)	
REGIONAL JAIL,)	By: Norman K. Moon
Defendant.)	United States District Judge

Plaintiff Daniel Mariano, proceeding *pro se*, brings this civil rights action pursuant to 42 U.S.C. § 1983 against the Western Virginia Regional Jail, alleging that he was denied food on one occasion and subjected to excessive force. I find that the Western Virginia Regional Jail is not a proper defendant to a § 1983 action. Accordingly, I will dismiss Mariano's complaint pursuant to 28 U.S.C. § 1915A(b)(1).

Mariano names only the Western Virginia Regional Jail as defendant to this action. To state a cause of action under § 1983, a plaintiff must allege facts indicating that he has been deprived of rights guaranteed by the Constitution or laws of the United States and that this deprivation resulted from conduct committed by a person acting under color of state law. *West v. Atkins*, 487 U.S. 42 (1988). As the Western Virginia Regional Jail is not a "person" subject to suit under § 1983, Mariano cannot maintain his action against the defendant jail. *See McCoy v. Chesapeake Correctional Center*, 788 F. Supp. 890 (E.D. Va. 1992). Therefore, I will dismiss this action.

The Clerk of the Court is directed to send copies of this memorandum opinion and the accompanying order to the parties.

ENTER: This 11th day of December, 2012.



NORMAN K. MOON
UNITED STATES DISTRICT JUDGE